IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.294 OF 2007

Jagannath Nagnath Pawar & 3 Ors. ...Applicants.
V/s.
The State of Maharashtra ...Respondent.

Shri A.P.Mundargi with Amol Patankar, advs. for the applicants.
Shri Y.S.Shinde, APP for the Respondent.

WITH
CRIMINAL APPLICATION NO.692 OF 2007

Sangeeta alias Ranita Shivaji Autade & Anr. ..Applicants
V/s.
The State of Maharashtra ..Respondent.

Shri Viresh V. Purwant, adv. for the Applicants.
Smt.R.M.Gadhvi, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 7th March, 2007.

P.C.:

1. Both these applications for anticipatory bail, filed by the rival parties, may be disposed off by the common order.

2. Heard the learned counsel for the respective parties and perused the investigation papers.

3. In criminal application no.294 of 2007, the applicants are original accused nos.2 to 5 in crime no.2 of 2007 registered at Mandrup police station for the

offence punishable under Section 326 read with Section 149 of the I.P.C. The deceased Nagnath was father of the applicant no.1 Jagannath and the said Nagnath was accused no.1 in this case. In the same incident, Nagnath died and the counter case bearing crime no.1 of 2007 came to be registered under Section 307 read with Section 149 of the I.P.C. but after the death of Nagnath, it was converted into the offence under Section 302 of the I.P.C. The applicants in criminal application no.692 of 2007 are two accused persons out of total 8 facing that case.

4. It is the case of the applicants in criminal application no.294 of 2007 that land in Survey no.237 originally belonged to applicant nos.3 and 4, which was purchased from them by Nagnath, father of the applicant no.1. This land is abutted by lands bearing survey no.230/1, survey no.224/2 and Survey no.234/3 towards northern side. These three pieces of land belong to accused persons in the counter case. They claimed a road or right of way through survey no.237 belonging to the applicants and this was denied by the applicants. Therefore, some of the applicants had filed Regular Civil Suit No.573 of 2006 in the Court of Civil Judge, Senior Division at Solapur for perpetual injunction restraining the opposite side from claiming right of

way. They also sought temporary injunction. It appears that interim injunction was granted but later on it was vacated and the applicants had preferred an appeal against that order before the District Court. Pending that appeal dispute resulting in these two criminal cases arose. It appears that on that day, the opposite party, i.e., persons, who are accused in crime no.1 of 2007 came in cart and were proceeding to their field for cutting sugar-cane crop. For this purpose, they entered in the field bearing survey no.237 by which they were claiming right of way. This was objected by the applicants in criminal application no.294 of 2007. Thereafter quarrel took place and both the sides assaulted each other. Son and other relatives of Nagnath against whom crime no.2/2007 came to be registered under Section 326 of the I.P.C., claim anticipatory bail contending that they were not the aggressors. However, according to the prosecution all these applicants have taken active part in the assault against the opposite side.

5. In criminal application no.692 of 2007, applicant no.1 Sangita @ Ranita and applicant no.2 Rajabai are the young ladies aged about 30 and 29 years. They claim anticipatory bail in crime no.1 of 2007 registered under Section 302 of the I.P.C., etc. for

the murder of Nagnath and causing injuries to others. According to them they are falsely implicated. According to the prosecution, these two ladies had actually participated in the said incident and had assaulted and injured atleast two persons from the opposite side. In this attack Nagnath suffered 18 injuries and died. His sons and others also suffered injuries.

6. The medical certificates of injured persons from both the sides revealed that number of persons were injured and some of the persons, who are accused in Crime no.1 of 2007 had suffered fractures also.

7. Taking into consideration all the circumstances, it appears that both the parties came well prepared to fight against each other about right of way which was claimed by one side and denied by other side. Both the parties assaulted each other with sharp and cutting weapons as well as with the sticks. F.I.Rs., statements of witnesses and the medical certificates of the injured in both the cases clearly show presence of applicants in both the applications. Therefore, I find that this is not the fit case to grant anticipatory bail. However, as far as applicant no.4 Shantabai Ganappa Lonari in criminal application no.294

of 2007 is concerned, it appears that she is a old lady aged about 75-80 years. Though she had participated in that incident, taking into consideration her old age, I find that it will not be in the interest of justice to keep her in custody. Even the learned APP did not seriously oppose the request for anticipatory bail as far as applicant no.4 Shantabai is concerned. Therefore, I find that, irrespective of facts, applicant no.4 Shantabai, purely because of her oldage, may be granted anticipatory bail while other applicants do not deserve that relief.

8. In the event of arrest in crime no.2 of 2007 of the applicant no.4 Shantabai Ganappa Lonari shall be released on her executing P.R.Bond of Rs.10,000/- with surety of like amount with condition that she shall co-operate with police in investigation and shall also make herself available for interrogation as and when required during day time. Her statement as far as possible shall be recorded at her residence and not at the police station.

9. Criminal Application No.294 of 2007 in respect of applicant nos.1 to 3 stands rejected.

10. Criminal Application no.692 of 2007 also stands

rejected.

(J.H.Bhatia,J.)